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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,435	02/02/2002	Edward J. Yurkow	RU-0130	9557
26259	7590	01/24/2005	EXAMINER	
LICATLA & TYRRELL P.C.			SPIVACK, PHYLLIS G	
66 E. MAIN STREET			ART UNIT	
MARLTON, NJ 08053			PAPER NUMBER	

1614

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,435

Applicant(s)

YURKOW ET AL.

Examiner

Phyllis G. Spivack

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicants' Reply filed October 8, 2004 is acknowledged. Claims 1 and 5 remain under consideration.

Applicants are requested to provide the filing dates for related applications CA 2,362,787 and EP 00913470.1.

The disclosure was objected to in the last Office Action for a typographical error on page 5, line 16, of the specification.

The objection is withdrawn following correction on page 5 of the specification.

Claims 1 and 5 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/228644.

Applicants have provided a terminal disclaimer; however, this is a provisional obviousness-type double patenting rejection. The conflicting claims have not in fact been patented.

In the last Office Action claims 1 and 5 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention with respect to the recitation "selected redox state". It was asserted the metes and bound of the term "selected" cannot be precisely determined.

Applicants have amended claims 1 and 5 such that "selected" is deleted and -- specific -- is inserted therefor. Clarification remains required because "specific" is a relative term that is not defined by the claims. The specification does not provide a standard for ascertaining the scope of "specific redox state".

Art Unit: 1614

Claims 1 and 5 were rejected under 35 U.S.C. 112, first paragraph, in the last Office Action as based on a disclosure that is not enabling. It was asserted redox clamping agents comprising a thiol (sulfhydryl)-containing moiety are critical or essential to the practice of the invention, but this characteristic of the redox clamping agents is not included in the claims.

Following the inclusion of the limitation "comprising a thiol(sulfhydryl)-containing molecule", the rejection under 35 U.S.C. 112, first paragraph, is withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 5 is rejected under 35 U.S.C. 102(a) as being anticipated by Obrosova et al., Diabetologia (abstract).

Obrosova teaches a diabetic model wherein a stabilization of lenticular cells that were contacted with the thiol-containing molecule, α -lipoic acid, is demonstrated.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Demopoulos et al., US 2002/0136763.

Demopoulos teaches contacting cells with a chemotherapeutic agent and a redox clamping agent that is the thiol-containing molecule, i.e., glutathione, wherein a desired redox state is maintained. See page 2, paragraphs [0017] and [0022], where, as a strong reducing agent, glutathione functions to sensitize said cells to the effects of a chemotherapeutic agent. Further, see page 23, claims 48 and 49.

No claim is allowed.

Applicants' Amendment necessitated the new ground) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

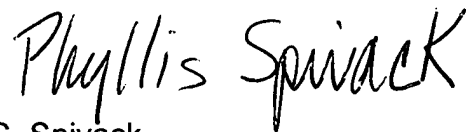
A shortened statutory period for reply to this Final Action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this Final Action and the Advisory Action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this Final Action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The examiner can normally be reached Monday to Friday from 10:30 to 7 PM.

Art Unit: 1614

If attempts to reach the examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Chris Low, can be reached at 571-272-0585. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phyllis G. Spivack
Primary Examiner
Art Unit 1614

**PHYLLIS SPIVACK
PRIMARY EXAMINER**

January 20, 2005